

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2222

IN THE MATTER OF:

Served May 12, 1981

Investigation of Alleged Over- )  
charges By and Order to Show Cause )  
Directed Against PAUL AKINROTOYE )

Case No. MP-81-04

By application (styled request) filed May 8, 1981, respondent Paul Akinrotoye seeks reconsideration of that part of Order No. 2212, served April 9, 1981, directing respondent to deposit \$300 to cover the costs of this investigation. Respondent asserts (a) that Title II, Article XII, Section 19(b) of the Compact limits the expenses of an investigation to one-half of one percent of the carrier's gross receipts for the prior fiscal year and (b) that levying an assessment without a preliminary inquiry into the earnings of the carrier is arbitrary, capricious and an abuse of discretion.

Title II, Article XII, Section 16 of the Compact provides, as pertinent, that

[a]ny person affected by any final order or decision of the Commission may within thirty days after the publication thereof file with the Commission an application in writing requesting a reconsideration of the matters involved, and stating the errors claimed as grounds for such reconsideration.  
[Emphasis added.]

Inasmuch as Order No. 2212 is interlocutory in nature and is not a final decision in Case No. MP-81-04, and because the application for reconsideration neither alleges nor demonstrates any hardship, irreparable or otherwise, which would be generated by compliance with Order No. 2212, the application shall be dismissed.

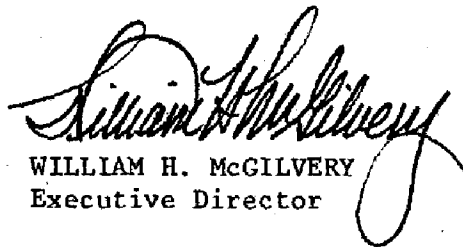
We note in passing, however, that neither the Compact nor our Rules and Regulations require the preliminary inquiry suggested by respondent. Should Mr. Akinrotoye desire, he may introduce competent evidence of his financial status during the course of the hearing. If it should be proved that the initial assessment exceeds the above-referenced limitation, an appropriate refund will be ordered. Moreover, respondent should be aware that the witness fees and the transcript of the hearings are the costs against which the assessment is applied.

One other matter requires disposition. We have been notified by one complainant that she is under summons as a juror on May 14, 1981. Accordingly, an additional hearing date of May 20, 1981, will be established.

THEREFORE, IT IS ORDERED:

1. That the application for reconsideration is hereby dismissed without prejudice to respondent's right to introduce appropriate evidence on the amount of assessment during the proceeding.
2. That Order No. 2212 remains in full force and effect.
3. That the public hearing on this matter shall commence as scheduled on Thursday, May 14, 1981, at 9:30 a.m. and shall be continued, if necessary, on Wednesday, May 20, 1981, at 9:30 a.m.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON.

  
WILLIAM H. MCGILVERY  
Executive Director